

Housing Authority - County of Los Angeles

July 10, 2006

To: Each Supervisor

From: *for* Carlos Jackson, Executive Director *Bobette Glover*

SUBJECT: PHA TENANT COMMISSIONER REQUIREMENT

Pursuant to my discussion with your offices last week, I informed your staff that I would provide a written memorandum containing additional details of our recent notification from the U.S. Department of Housing and Urban Development (HUD) that they are withholding our Public Housing Capital Funds. This funding is being withheld until we resolve the public housing authority (PHA) requirement to have a Section 8 participant or public housing resident on our Housing Authority's governing body.

We are currently pursuing an exemption from this requirement through the legislative process, working closely with the Chief Administrative Office, the County's Washington D.C. advocates, and Senator Dianne Feinstein's office. The memorandum further explains the legislative route we are exploring and presents the other options available to the County.

Background

On June 27, 2006, we received notification from HUD that they are withholding \$5.6 million in Capital Funds from the Housing Authority's Fiscal Year 2006-2007 allocation until we comply with the statutory requirement to have a tenant commissioner serve on the Housing Authority's governing body.

Capital Funds are used to renovate conventional public housing, to provide resident services, and to make management improvements. It is part of the overall funding we receive from HUD to manage our inventory of 2,962 units of family and senior housing.

In the written notice, HUD cited three deficiencies in our recently submitted annual Agency Plan. Two of the deficiencies are technical in nature and have been addressed. However, the third deficiency - the tenant commissioner issue - is substantive and, therefore, HUD is withholding our Capital Funds at this time.

In 1998, Congress added a requirement that the membership of the board of directors or similar governing body of a public housing authority (PHA) must include at least one member who is directly assisted by the PHA. The governing body of the Housing Authority is the Board of Commissioners, who are also the Los Angeles County Board of Supervisors.

On February 1, 1982, the Housing Commission was created as an advisory body to review all housing authority policy and program matters and make recommendations to the Board of Commissioners for approval. Currently, the County's Housing Commission is comprised of nine members – five non-tenant members and four tenant commissioners that are assisted by the Housing Authority. California State law requires housing authorities to have two tenant commissioners on the Housing Commission. The County exceeds the State's requirements by including four tenant commissioners, two of which are Section 8 participants and two are public housing residents.

At the time the federal law was passed, we advised your staff and concurrently sought guidance from both County Counsel and outside counsel, Brown, Winfield and Canzoneri. We attempted to determine if the Board of Commissioners would qualify for an exemption under the law, or if a tenant member on the Housing Commission would satisfy the federal law.

Both counsels advised that neither the Board of Commissioners were exempt, nor did a tenant member on the Housing Commission comply with the new HUD requirement. We sought the assistance of our advocacy organizations and the County's advocates in Washington D.C. to try to obtain a waiver. Our position was that the tenant participation on the County's Housing Commission met the Congressional intent of resident participation. We were advised that other jurisdictions were voicing their opposition to this new federal requirement, but that HUD had a very strict mandate from Congress to enforce this requirement as it is statutory. Nevertheless, we were unsuccessful in obtaining a waiver to this requirement.

For the past several years, our annual Housing Authority Agency Plan, which is, in part, an application for housing authority funding, has stated that we were "... in the process of implementing the tenant commissioner requirement." At this time, HUD has decided to withhold a portion of our funding for fiscal year 2006-2007, because we have not made significant progress in complying with this statutory requirement.

Upon receiving HUD's letter, we discussed the tenant commissioner requirement with County Counsel and they reaffirmed their initial conclusion. I have been in close communication with the local HUD office since I received the letter on June 27th and I will continue to keep them apprised of our efforts to remedy this situation.

Options

We have reviewed and discussed our options with County Counsel and our Washington D.C. advocate. At this time, we are aware of three options that are available to the County and they are described below:

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1. Seek federal legislation that would exempt the County of Los Angeles from this statutory requirement. Currently, PHAs in three states – Alaska, Iowa and Mississippi - are exempt from this requirement. The County has Board policy, as part of its Federal Agenda adopted on February 21, 2006, to provide local officials with greater flexibility over the membership of the governing body of the PHA.

As I indicated, we are currently working on this as there is an immediate opportunity in the Federal Fiscal Year (FFY) 2007 appropriations process to get language included to exempt the County of Los Angeles from this requirement. We are working with our Washington D.C. advocate, Eve O'Toole, and Senator Feinstein's office to include language in the Senate's FFY 2007 HUD Appropriations Bill.

2. Add a public housing resident or a Section 8 voucher holder to the Board of Commissioners. This individual would sit with the Board of Commissioners at each meeting as a full member of the governing body. He or she would have the authority, along with other members of the governing body, to decide matters related to the administration, operation and management of the housing authority's programs. This is the structure used in several local cities.
3. Establish an independent governing body, appointed by the Board of Commissioners. The independent body would make decisions related to the administration, operation, and management of the housing authority. This is the structure in place in the City of Los Angeles.

In the near future we will have a better idea of the timing and viability of this legislation. Should it appear that we will not be successful in obtaining exemption language, it will be necessary for us to have further discussions of the other options outlined above. I will be contacting you to discuss this matter. In the meantime, should you have any questions, please call me at (323) 890-7400.

CJ:TT

c: Each Deputy
David Janssen, Chief Administrative Officer, CAO
Gerri Kariya, Assistant Administrative Officer, CAO
Raymond G. Fortner Jr., County Counsel